

## **REMARKS**

Claims 16 and 19 to 40 are pending in the application: claim 1-15, 17-18, 41-43 are canceled.

### **Rejection under 35 U.S.C. 102**

Claims 16-19, 26, 27, 30 stand rejected under 35 U.S.C. 102(b) as being anticipated by *EP 0 984 745*.

Claim 16 has been amended to include the features of claim 17 and 18, with the added feature that both the base material and the fibers are comprised of resorbable material and that the resorbable material is different for the base material and the fibers, as specified in claim 18.

The cited EP reference only discloses a single material (e.g. polylactide) for the base and the “fibers” (base and “fibers” are provided by rods of different size and diameter) and not a combination of different materials as specified in amended claim 16.

Claim 16 as amended is therefore neither anticipated nor obvious in view of the cited reference.

Reconsideration and withdrawal of the rejection of the claims under 35 USC 102 are therefore respectfully requested.

### **ALLOWABLE SUBJECT MATTER**

Claims 20-25, 28, 29 are objected to as being dependent upon a rejected base claim.

Claim 20 has been amended to include the features of claim 16 and should thus be allowable together with its dependent claims 21-24 and 30.

Claim 25 has been amended to include the features of claim 16 and should thus be allowable together with its dependent claim 26.

Claim 28 has been amended to include the features of claim 16 and should thus be allowable together with its dependent claim 27.

Claim 29 has been amended to include the features of claim 16 and should thus be allowable.

With the amendment five claims have been canceled, including two independent

claims (41 and 43).

Four claims (20, 25, 28, 29) have been rewritten as independent claims so that a fee for two independent claims (four being added; two independent claims for which the appropriate fees have been paid previously having been canceled) is required.

The required total fee in the amount of \$200.00 is being paid concurrently by credit card.

### **REJOINDER**

Claims 31 to 43 are withdrawn as being directed to a non-elected invention or species.

Rejoinder of the claims 31-35 drawn to the non-elected species of a multilayer scaffold structure comprising scaffolds according to allowable claim 20 is respectfully requested as claim 31 depends from allowable claim 20.

Withdrawn claims 35 to 40 drawn to an implant material and an implant are related to allowable claim 20 as combination and subcombination. Rejoinder of combination claims when subcombination has been elected must be examined pursuant to 37 CFR 1.104 and MPEP 821.04 when the combination claims depend from or require all limitations of the allowable subcombination claims. Since claim 35 and claim 38 require the limitations of allowable claim 20, rejoinder of claims 35 to 40 is respectfully requested.

### **CONCLUSION**

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **electronic mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by **electronic mail**. I understand that a copy of these communications will be made of record in the application file.

Authorization is herewith given to charge any fees or any shortages in any fees

required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on March 28, 2008,

/Gudrun E. Hockett/

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